

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Case No.: 17-23046-rdd

RICHARD BECKER,

Chapter 13

Debtor.

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**OBJECTION TO DEBTOR'S MOTION FOR AN ORDER AUTHORIZING, AMONG  
OTHER THINGS, THE SALE OF DEBTOR'S REAL PROPERTY**

**TO: THE HONORABLE ROBERT D. DRAIN,  
UNITED STATES BANKRUPTCY JUDGE**

Federal National Mortgage Association ("Fannie Mae" or the "Secured Creditor"), by and through its undersigned counsel, submits this Objection to the Debtor's Motion for an Order Authorizing, among other things, the Sale of Debtor's Real Property [*Doc. 25*] (the "Debtor's Second Sale Motion") and respectfully states as follows:

1. The Secured Creditor holds a security interest in the Debtor's real property located at 16 Pierce Street, New Rochelle, NY 10801 (the "Property"), by virtue of a certain Mortgage duly recorded in Westchester County, New York, encumbering the Property and securing a certain Note (together with the Mortgage, the "Loan") in the principal amount of \$417,000.00.

2. On July 6, 2017, the debtor Richard Becker (the "Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code.

3. On September 13, 2017, the Debtor filed a motion to sell the Property for a purchase price of \$600,000.00 [*Doc. 14*] (the "Debtor's First Sale Motion").

4. On October 25, 2017, a Limited Response was filed to the Debtor's First Sale Motion on behalf of the Secured Creditor.

5. On November 7, 2017, the Court entered an Order granting the Debtor's First Sale Motion.

6. As set forth in the Debtor's Second Sale Motion, the purchaser was not able to consummate the sale and the sale was terminated.

7. The Debtor's Second Sale Motion seeks to sell the Property to another proposed purchaser for a now reduced price of \$570,000.00 and seeks to provide a distribution to the Secured Creditor in the amount of \$528,300.00.

8. As of today, the amount required to payoff the Loan in full is \$583,171.76.

9. Based on the foregoing, the Secured Creditor does not consent to and objects to the proposed sale.

10. The crux of the Debtor's argument is that "the value to be obtained in the instant sale is better than would be obtained in a foreclosure sale" to justify the approval of the sale under § 363(f)(5) of the Bankruptcy Code. However, the Debtor's Second Sale Motion provides no evidence to support this conclusion.

11. As the proposed sale is a private sale, not subject to higher and better offers, and the purchase price is \$30,000 less than what was previously represented by the Debtor to be fair and reasonable, the Secured Creditor disputes that the current proposed sale price is fair and reasonable.

12. In the alternative, if the Court determines that the sale price set forth in the Debtor's Second Sale Motion is fair and reasonable, the Secured Creditor requests the opportunity to submit a credit bid for the purchase of the Property under § 363(k) of the Bankruptcy Code.

**WHEREFORE**, the Secured Creditor respectfully submits this Objection to the Debtor's Second Sale Motion, requests that the Debtor's Second Sale Motion be denied, and in the alternative, requests the Court provide the Secured Creditor with an opportunity to credit bid under § 363(k) of the Bankruptcy Code, and such other and further relief as the Court may deem just and proper.

Dated: March 20, 2018  
Westbury, New York

RAS BORISKIN, LLC

By: /s/ Michael A Samuels  
Michael A. Samuels  
900 Merchants Concourse  
Westbury, New York 11590  
Phone: 516-280-7675  
Fax: 516-280-7674  
Email: [msamuels@rasboriskin.com](mailto:msamuels@rasboriskin.com)  
Attorneys for Secured Creditor

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on March 20, 2018, I caused the foregoing to be electronically filed with the Clerk of Court by using the CM/ECF system and for true copies thereof to be mailed by overnight courier on the parties addressed below:

H. Bruce Bronson, Jr., Esq.  
Bronson Law Offices, P.C.  
480 Mamaroneck Avenue  
Harrison, NY 10528-0023

Richard Becker  
16 Pierce St  
New Rochelle, NY 10801-2025

Krista M. Preuss, Esq.  
399 Knollwood Road  
White Plains, NY 10603

United States Trustee  
Office of the United States Trustee  
U.S. Federal Office Building  
201 Varick Street, Room 1006  
New York, NY 10014

/s/ Michael A Samuels  
Michael A. Samuels  
RAS BORISKIN, LLC  
900 Merchants Concourse  
Westbury, New York 11590  
Phone: 516-280-7675  
Fax: 516-280-7674  
Email: msamuels@rasboriskin.com